IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JAIPUR BENCH, JAIPUR

JUDGMENT

S.B. Civil Misc. Appeal No. 1824/2002
S.B. Civil Misc. Stay Application No. 2799/2002
(National Insurance Company Ltd. Versus Bharat Singh & Another)

S.B. Civil Misc. Appeal No. 868/2002
S.B. Civil Misc. Stay Application No. 1391/2002
(National Insurance Company Ltd. Versus Smt. Suman and others)

Date of Judgment :: 4th October, 2012

HON'BLE MR. JUSTICE MAHESH CHANDRA SHARMA

Mr. Vizzy Agarwal, counsel for the Insurance Co.
Mr. Sanjay Tyagi for the respondent(s)

BY THE COURT:

Since both the aforesaid two appeals arise out of the judgment and award dated 6.2.2002 passed by the learned Tribunal, hence they are being decided by this common judgment.

At the very outset, learned counsel for the appellant submits that the learned Tribunal while passing the impugned award has not taken into consideration the grounds which he has raised by way of the aforesaid appeals. The finding of the learned Tribunal on issue no. 2 is contrary to the material available on record. Thus, the impugned award passed by the learned Tribunal qua issue no. 2 be quashed and set aside and the matter be remanded to

the learned Tribunal with the direction to decide the matter afresh in the light of objections which he has raised by way of the aforesaid appeals.

E Converso, the learned counsel for the respondents defended the impugned award and stated the same to be just and apposite.

I have heard learned counsel for the parties and carefully perused the relevant material on record including the impugned award.

In my considered view, the learned Tribunal while passing the impugned award has not gone through the facts of the case and passed the impugned award surreptitiously. Thus, the impugned award passed by the learned Tribunal needs interference by this Court.

In the result, both the aforesaid appeals are partly allowed and the impugned judgment and award dated 6.2.2002 passed by Motor Accident Claims Tribunal, qua issue no. 2 is quashed and set aside with the direction to the learned Tribunal to decide the matter afresh in the light of the grounds taken by learned counsel for the appellant in the aforesaid appeals, after issuing notice to all the concerned parties and giving opportunity

of hearing to them.

Both the parties are directed to appear before the learned Tribunal on 18.2.2013.

Consequent upon the disposal of appeals, the stay applications, filed herewith, do not survive and they also stand disposed of.

(MAHESH CHANDRA SHARMA),J.

DK

All corrections made in the judgment / order have been incorporated in the judgment / order being E-mailed.

Dilip Khandelwal
PA